

BEFORE

THE PUBLIC SERVICE COMMISSION OF

STATE OF SOUTH CAROLINA

DOCKET NO. 2020-2-E – ORDER NO. 2020-_____

In re:)	
)	
Annual Review of Base Rates for Fuel)	CCL AND SACE’S PROPOSED
Costs for Dominion Energy South)	ORDER
Carolina, Inc.)	

I. INTRODUCTION

This matter comes before the Public Service Commission of South Carolina (“Commission”) on the annual review of Dominion Energy South Carolina’s (“DESC” or “Company”) fuel purchasing practices and policies to determine whether any adjustment in the fuel cost recovery factors is necessary and reasonable. S.C. Code Ann. § 58-27-865 (2015) establishes the Commission’s procedure in this proceeding. Additionally, and pursuant to S.C. Code Ann. § 58-39-140 (2015), the Commission must determine whether to grant an increase or decrease in the fuel cost component designed to recover the incremental and avoided costs incurred by the Company to implement the Distributed Energy Resource (“DER”) program previously approved by the Commission. The period under review in this Docket is January 1, 2019, through December 31, 2019 (“Review Period”).

A. Notice and Intervention

On August 13, 2019, the Clerk’s Office of the Commission, by letter, instructed Company to publish, on or before October 8, 2019, a Notice of Hearing and Prefile

Testimony Deadlines (“Notice”) in the newspapers of general circulation in the area affected by the Commission’s annual review of the Company’s fuel purchasing practices and policies. The letter also instructed the Company to send the Notice to its customers, on or before October 8, 2019, by U.S. Mail via bill inserts, or by electronic mail to customers who have agreed to receive notice by electronic mail. The Notice stated the nature of the proceeding and advised all interested parties wishing to participate in the scheduled proceeding how and when to file appropriate pleadings.

On September 20, 2019, the Company filed with the Commission affidavits confirming that the Company had duly published the Notice in newspapers of general circulation in accordance with the instructions set forth in the Clerk’s Office’s August 13, 2019 letter. On October 9, 2019, the Company filed with the Commission an affidavit verifying that the Company had properly furnished the Notice to each affected customer.

The Commission received timely Petitions to Intervene from the South Carolina Coastal Conservation League and the Southern Alliance for Clean Energy (“CCL/SACE”), the South Carolina Energy Users Committee (“SCEUC”), the South Carolina Solar Business Alliance, Inc. (“SBA”), Ecoplexus, Inc. (“Ecoplexus”), and CMC Steel South Carolina (“CMC Steel”). SCE&G did not oppose any Petitions to Intervene, and no other parties sought to intervene in this proceeding. The South Carolina Office of Regulatory Staff (“ORS”) is automatically a party pursuant to S.C. Code Ann. § 58-4-10(B) (2019).

II. STATUTORY STANDARDS

S.C. Code Ann. § 58-3-140(A) vests the Commission with the “power and jurisdiction to supervise and regulate the rates and service of every public utility in this

State . . .” Every rate “made, demanded or received by any electrical utility . . . shall be just and reasonable . . .” S.C. Code Ann. § 58-27-810 (Supp. 2015).

A. Fuel Cost Recovery under S.C. Code Ann. § 58-27-865

S.C. Code Ann. § 58-27-865 establishes the Commission’s procedures in this Proceeding, and S.C. Code Ann. § 58-27-865(B) states in pertinent part that, “[u]pon conducting public hearings in accordance with law, the [C]ommission shall direct each company to place in effect in its base rate an amount designated to recover, during the succeeding twelve months, the fuel costs determined by the [C]ommission to be appropriate for that period, adjusted for the over-recovery or under-recovery from the preceding twelve-month period.”

S.C. Code Ann. § 58-27-865(F) further states that “[t]he commission shall disallow recovery of any fuel costs that it finds without just cause to be the result of failure of the utility to make every reasonable effort to minimize fuel costs or any decision of the utility resulting in unreasonable fuel costs, giving due regard to reliability of service, economical generation mix, generating experience of comparable facilities, and minimization of the total cost of providing service.”

III. HEARING

A. Pre-Hearing Motions in Response to 2019 Novel Coronavirus

On March 13, 2020, Governor Henry McMaster issued Executive Order 2020-08 declaring a State of Emergency in South Carolina based on a determination that the 2019 Novel Coronavirus (“COVID-19”) “poses an actual or imminent public health emergency for the State of South Carolina.” On March 23, 2020, Governor McMaster issued another executive order declaring that South Carolina “must promote and facilitate effective

‘social distancing’ practices” to address the “significant public health, economic, and other impacts associated with COVID-19 and to mitigate the resulting burdens on healthcare providers, individuals, and businesses in the State of South Carolina.” Executive Order 2020-13. Governor McMaster also issued a series of other executive orders closing schools, postponing elections, prohibiting on-premises restaurant dining, banning gatherings of more than three people, and invoking emergency governmental powers under multiple statutes. *See* Executive Orders 2020-08 through 15.

In response, on April 2, 2020, DESC, ORS, SBA, Ecoplexus, SCEUC, CMC Steel, and CCL/SACE filed a joint motion requesting that the Commission cancel the public hearing in this docket, scheduled for April 9, 2020, and issue an order based on its consideration of the written testimony and exhibits submitted into the record without the need for an in-person hearing (“the Joint Motion”). On April 2, 2020, counsel for SBA and Ecoplexus filed a motion to be excused from any virtual hearing scheduled in this docket; on April 3, 2020, counsel for CMC Steel filed a motion to be excused from any virtual hearing.

On April 6, 2020, Hearing Officer David Butler issued Order No. 2020-30-H denying the portion of the Joint Motion requesting that the public hearing be cancelled but granting the request for the Commission decide the matter without an in-person hearing. The order directed that the Commission would instead conduct a virtual hearing in the Commission’s hearing room at the scheduled time. Hearing Officer Directive Order No. 2020-29-H, dated April 6, 2020, granted the requests to be excused of SBA, Ecoplexus, and CMC Steel.

B. Virtual Hearing on April 9, 2020

On April 9, 2020, the Commission convened a virtual hearing on this matter with the Honorable Comer H. “Randy” Randall presiding.

DESC was represented by K. Chad Burgess, Esquire and Matthew W. Gissendanner, Esquire. SCEUC was represented by Scott Elliott, Esquire. CCL and SACE were represented by J. Blanding Holman IV, Esquire, Kurt Ebersbach, Esquire, and Kate Lee, Esquire. Jeffrey M. Nelson, Esquire represented ORS. SBA, Ecoplexus, CMC Steel and their counsels of record did not appear at the hearing.

DESC presented the verified, pre-filed direct testimonies of George A. Lippard, III and Mark C. Furtick and the direct testimonies and exhibits of Henry E. Delk, Jr., Michael D. Shinn, Rose M. Jackson, and Allen W. Rooks. ORS presented the verified, pre-filed direct testimonies and exhibits of Anthony D. Briseno, Anthony M. Sandonato, Michael Seaman-Huynh, and Robert Lawyer. CCL and SACE presented the verified, pre-filed direct testimony and exhibits of Gregory M. Lander. Witnesses for DESC, ORS, and CCL/SACE did not appear personally or virtually at the hearing. SCEUC did not present witness testimony at the hearing.

DESC presented the verified, pre-filed rebuttal testimony of Witness Rose M. Jackson in response to the direct testimony of CCL and SACE Witness Lander. CCL and SACE presented Witness Lander’s surrebuttal testimony in response to DESC’s rebuttal testimony.

IV. REVIEW OF EVIDENCE AND EVIDENTIARY CONCLUSIONS

After hearing the evidence and testimonies of the witnesses, the Commission reaches the following factual and legal conclusions:

A. Fuel Purchasing Practices

1. CCL and SACE Testimony

a. Allocation of Fixed Capacity Costs

CCL and SACE Witness Lander reviewed DESC's load factor utilization of its contracted capacity with four different pipelines over the Review Period. In conducting this analysis, Mr. Lander discovered that pursuant a Memorandum of Understanding ("MOU"), the DESC Electric Division may use capacity held by the DESC Gas Division when it has scheduled more gas than its contracted level of capacity. This memorandum also allows the Gas Division to use the Electric Division's capacity when it is available. However, when one Division uses the other Division's capacity, it does not compensate the other Division for the fixed costs associated with that capacity; rather, the using Division only covers variable charges, including the cost of the gas itself and pipeline fuel charges. Mr. Lander stated that this policy could result in gas ratepayers subsidizing electric ratepayers' use of the Gas Division's contracted pipeline capacity, or vice versa where the Gas Division uses the Electric Division's capacity. Mr. Lander recommended that the Commission alter the current policy governing compensation by one Division for the use of the other Division's contractually available capacity and require that the compensation include covering fixed costs and not just variable costs. Mr. Lander further recommended that the Commission order DESC to value these fixed costs at the 100% load factor equivalent of the most recent incremental rate applicable to the same capacity, or alternatively, at the rate applicable to the contract used.

b. Mountain Valley Pipeline & Southeastern Trail Agreements

CCL and SACE Witness Lander also reviewed two precedent agreements that DESC has executed with two different pipelines: (i) Mountain Valley, and (ii) Southeastern Trail. Specifically, Mr. Lander considered the “all in cost” of the contracts, taking into consideration both the firm costs of using the various pipelines and the likely natural gas commodity costs of gas available on those pipelines. After conducting this analysis, Mr. Lander concludes that neither of these precedent agreements is likely to provide value to DESC’s customers.

Mr. Lander concludes that the Mountain Valley and Southeastern Trail contracts would increase customer costs without providing a corresponding increase in reliability or value. As such, Mr. Lander recommends that the Commission either completely disallow recovery of these contract costs or the Commission cap recovery to ensure that DESC customers are financially no worse off than they would have been had DESC not executed these two contracts.

2. *DESC’s Rebuttal Testimony*

In rebuttal, DESC presented Ms. Jackson. With respect to the allocation of fixed capacity costs between Electric and Gas Division customers, Ms. Jackson stated that DESC’s practice of sharing capacity between the Divisions is reasonable and prudent and that Mr. Lander’s proposal would increase costs for both electric and gas ratepayers. Ms. Jackson also provided that DESC could not use “self-releases” on the capacity release market to implement such a proposal.

With respect to the Mountain Valley and Southeastern Trail contracts, Ms. Jackson stated that the costs associated with these agreements are not currently before the

Commission in this Proceeding. Ms. Jackson identified what she claims are errors in Mr. Lander's calculations that support her position that the Commission should disregard Mr. Lander's conclusions and recommendations.

3. CCL and SACE Surrebuttal Testimony

In his surrebuttal, Mr. Lander addressed the calculation errors Ms. Jackson identified. As to his load factor calculations for DESC's pipeline contracts, Mr. Lander states that DESC provided information during discovery that contradicts Ms. Jackson's statements in her rebuttal testimony, and that the discrepancy between three of his calculations and those provided by Ms. Jackson in her rebuttal testimony stems directly from that discovery response. Mr. Lander discovered an error in one of these calculations and issued a correction.

Mr. Lander disputed Ms. Jackson's criticisms of the remainder of his analysis and stated that any changes to his load factor calculations have no effect on his conclusion that neither the MVP nor SET agreements are necessary or prudent. Had DESC used either the Mountain Valley or Southeastern Trail contracts in 2018 or 2019 to displace use of its existing Transco or Sonat contracts, customer costs would have been higher.

With respect to Mr. Lander's recommendation about cost allocation between electric and gas ratepayers, Mr. Lander provided that he does not take issue with DESC's policy of sharing capacity between Divisions, but only how the associated costs are allocated to each Division's ratepayers. Mr. Lander stated that his proposal would not raise costs for all ratepayers, as any rate increase for electric customers would result in a corresponding decrease in rates to gas customers and vice versa. He further states that the use of incremental rates as a metric for allocating costs is reasonable because doing so

would most closely reflect the value of that capacity. Mr. Lander also disputed Ms. Jackson's statement that DESC could not use "self-releases" on the capacity release market to implement his proposal, but asserted that the use of self-releases is only one way to identify market value for cost allocation. Mr. Lander stated that this mechanism would only be appropriate if market value were chosen by the Commission as the preferred metric for cost allocation purposes, and that DESC could, as an alternative, just keep track of this information internally.

4. Commission Conclusions Regarding Fuel Purchasing Practices

Based upon the evidence and testimony of the witnesses, the Commission finds that the accounting methodology used by DESC's Electric and Gas Divisions when the two divisions share capacity is deficient in its failure to account for fixed transportation costs. The Commission adopts Witness Lander's recommendation to require DESC in future fuel cost proceedings to alter its current policy governing compensation by one Division for the use of the other Division's contractually available capacity such that compensation for fixed costs is included in addition to variable costs. The Commission finds that the appropriate valuation of these fixed costs is the 100% load factor equivalent of the most recent incremental rate applicable to the same capacity.

The Commission further finds and concludes that DESC has not demonstrated the necessity of either the Mountain Valley Pipeline or the Southeastern Trail precedent agreement. The Company has not demonstrated that it needs additional pipeline capacity, or that these agreements will not impose unreasonable costs on DESC customers. DESC is not seeking costs related to the Mountain Valley and Southeastern Trail precedent agreements in this proceeding. However, to the extent DESC seeks to pass these contract

costs onto customers in a future proceeding, absent compelling new evidence of cost-effectiveness and reliability benefits to justify full recovery, this Commission will hold DESC customers harmless for these contracts costs and may – if necessary – completely disallow recovery of those costs.

V. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. After giving due regard to reliability of service, economical generation mix, generating experience of comparable facilities, and minimization of the total cost of providing service, DESC has not made every reasonable effort to minimize fuel costs for ratepayers. DESC has not proven that it needs additional pipeline capacity, and the Mountain Valley and Southeastern Trail contracts will – under current conditions – impose unreasonable fuel costs on DESC’s customers.
2. The accounting methodology used by DESC’s Electric and Gas Divisions when the two divisions share capacity is unreasonable in its failure to account for fixed transportation costs.

IT IS THEREFORE ORDERED THAT:

1. DESC must alter its current policy governing compensation by one Division for the use of the other Division’s contractually available capacity such that compensation for fixed costs is included in addition to variable costs. DESC shall value these fixed costs at the 100% load factor equivalent of the most recent incremental rate applicable to the same capacity. This methodology must be reflected in the 2021 annual fuel cost proceeding.
2. To the extent DESC seeks, in a future proceeding, to pass the Mountain Valley and Southeastern Trail contract costs onto customers, absent compelling new

evidence of cost-effectiveness and reliability benefits to justify full recovery, this Commission will hold DESC customers harmless for these contracts costs and may – if necessary – completely disallow recovery of those costs.

3. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

Comer H. Randall, Chairman

ATTEST:

_____, _____

STATE OF SOUTH CAROLINA
BEFORE THE PUBLIC SERVICE COMMISSION
DOCKET NO. 2020-2-E

In re: Annual Review of Base Rates
for Fuel Costs for Dominion Energy
South Carolina, Incorporated

CERTIFICATE OF SERVICE

I certify that the following persons have been served with one (1) copy of the Proposed Order filed on behalf of South Carolina Coastal Conservation League and the Southern Alliance for Clean Energy by electronic mail and/or U.S. First Class Mail at the addresses set forth below:

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April 17, 2020

/s/ Emily E. Selden